

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS – EASTERN DIVISION**

DONALD MILLER and AMY MILLER,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 1:23-cv-2409
)	
MEMBERSELECT INSURANCE)	
COMPANY d/b/a AAA Insurance,)	Judge
)	
Defendant.)	Magistrate Judge
)	

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332(a), 1441(b), and 1446, Defendant, MemberSelect Insurance Company, (hereinafter “MSIC”), submits Notice of Removal of this action, captioned *Donald Miller and Amy Miller v. MemberSelect Insurance Company d/b/a AAA Insurance*, and bearing civil case number 2023-CH-01759, from the Circuit Court of Cook County, Illinois to the United States District Court for the Northern District of Illinois. Pursuant to 28 U.S.C. § 1446(a), MSIC states as follows:

1. On February 23, 2022, Plaintiffs Donald and Amy Miller (“Plaintiffs”) filed a Complaint in the Circuit Court of Cook County, Illinois, alleging that MSIC breached its contractual obligations by failing to pay an insurance claim for property damage caused by severe weather. (**Exh. A**, Complaint, at ¶¶ 29-38). Plaintiffs are also seeking a Declaratory Judgment that the property damage claim is covered under the Policy for \$91,332.28. (**Exh. A**, Complaint, at ¶¶ 39-42).
2. Plaintiffs served the Complaint on MSIC on March 20, 2023.

VENUE AND SUBJECT MATTER JURISDICTION

3. Pursuant to 28 U.S.C. § 1446(a), MSIC files this notice as required, “in the district court of the United States for the district and division within which [the Cook County] action is pending.”

4. MSIC maintains that venue is proper in the Northern District of Illinois pursuant to 28 U.S.C. §§ 1391 and 1441(a) because Plaintiffs are citizens of DuPage County, in the State of Illinois. (**Exh. A**, Complaint, at ¶ 1). Plaintiffs also submitted the subject insurance claim for damage to property in DuPage County, Illinois. (**Exh. A**, Complaint, ¶ 6-18).

5. This Court has subject matter jurisdiction under 28 U.S.C. § 1332(a) because (1) there is complete diversity of citizenship between Plaintiffs and Defendant; (2) the amount in controversy exceeds \$75,000, exclusive of interest and costs; and (3) all other requirements for removal have been satisfied.

DIVERSITY JURISDICTION

6. For purposes of diversity jurisdiction, a natural person’s citizenship is determined by their “domicile,” or the place of their true, fixed and permanent home and where they intend to remain. *Dakuras v. Edwards*, 312 F.3d 256, 258 (7th Cir. Ill. 2002).

7. Plaintiffs have been and are domiciled in the DuPage County, Illinois both when the Complaint was filed and at the time of removal. (**Exh. A**, Complaint, at ¶ 1). Therefore, Plaintiffs are citizens of Illinois.

8. For purposes of diversity jurisdiction, a corporation is “a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business. . . .” 28 U.S.C. § 1332(c)(1).

9. MSIC is a corporation that is incorporated and has its principal place of business in Michigan both when the Complaint was filed and at the time of removal. Therefore, MSIC is a citizen of Michigan.

10. Because Plaintiffs are citizens of Illinois and MSIC is a citizen of Michigan, there is complete diversity of citizenship.

11. Plaintiffs allege amounts in controversy that exceed \$75,000.00. Plaintiffs specifically allege that they suffered damages from MSIC's alleged refusal to pay for property damage in the amount of \$91,332.28, plus prejudgment interest and costs. (**Exh. A**, Complaint, at prayer for relief).

OTHER REMOVAL REQUIREMENTS

12. MSIC was served with process via process server on March 20, 2023. (*See* **Exh. A**, Service of Process Notification). This was the first service of the Complaint on MSIC.

13. MSIC entered its Appearance in the Circuit Court of Cook County, Illinois on April 18, 2023 solely to effectuate the removal. No other documents have been filed in the state court action.

14. Pursuant to 28 U.S.C. § 1446(a), a copy of the Complaint and all process, orders, and pleadings that have been filed and served in the underlying matter are attached hereto as **Exhibit A**. A copy of the electronic state court docket is also attached hereto as **Exhibit B**.

15. This Notice of Removal is timely filed within 30 days of service of the Complaint on March 20, 2023, as required by 28 U.S.C. § 1446(b).

16. Pursuant to 28 U.S.C. § 1446(d), this Notice will be sent to all parties and will be filed with the state court clerk's office. No hearing has been set in state court.

17. Pursuant to Fed.R.Civ.P. 81(c)(2)(C), MSIC will file a responsive pleading to Plaintiffs' Complaint within seven (7) days of the date that this Notice is filed.

CONCLUSION

This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332(a), and this action is one which may be removed to federal district court by MSIC pursuant to 28 U.S.C. §§ 1441(b) and 1446(a), as there is complete diversity in citizenship between the parties and because the amount in controversy, as set forth above, exceeds \$75,000, exclusive of interests and costs.

WHEREFORE, MSIC hereby removes this action from the Circuit Court of Cook County, Illinois to the United States District Court for the Northern District of Illinois. By filing this Notice of Removal, MSIC does not waive any defenses that may be available to it and reserves all such defenses.

Date: April 18, 2023

Respectfully submitted,

GORDON REES SCULLY MANSUKHANI LLP

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on April 18, 2023 a copy of the foregoing was filed with the United States District Court for the Northern District of Illinois via the Court's CM/ECF system. Copies were also served via Certified Mail upon the following:

Clerk of Cook County Circuit Court
50 W. Washington St.
Room 2405
Chicago, Illinois 60602
Attn: Hon. Judge Eve M. Reilly

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